

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Noel Mairena, D.C.

**Respondent Name**

Great Midwest Insurance Co.

**MFDR Tracking Number**

M4-22-2535-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

August 2, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 21, 2021	Designated Doctor Examination 99456-W5-WP	\$650.00	\$650.00
	Designated Doctor Examination 99456-W5-MI	\$100.00	\$100.00
	Designated Doctor Examination 99456-W6-RE	\$500.00	\$500.00
<b>Total</b>		<b>\$1,250.00</b>	<b>\$1,250.00</b>

### Requestor's Position

AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED. THE CURRENT RULES ALLOW REIMBURSEMENT.

**Amount in Dispute:** \$1,250.00

### Respondent's Position

The Austin carrier representative for Great Midwest Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on August 9, 2022.

Per 28 Texas Administrative Code §133.307 (d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the

available information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

## **Findings and Decision**

### Authority

This medical fee dispute is decided according to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. 28 Texas Administrative Code §102.4 sets out the general rules for non-division communication.
2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 TAC §134.235 sets out the fee guidelines for examinations to determine the extent of a compensable injury.
4. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

### Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 29 – The time limit for filing has expired.
- 96 – Non-covered charge(s).
- 582 – Based on Medicare schedule status indicates this code is either an invalid or delete CPT/HCPCS code. Medicare uses another code for reporting of, and payment for, this code. Please re-submit the appropriate code to ensure accurate processing.
- 4271 – Per TX Labor Code Sec. 408.027, providers must submit bills to payors within 95 days of the date of service.

### Issues

1. Is Great Midwest Insurance Co.'s denial based on timely filing supported?
2. Is Noel Mairena, D.C. entitled to additional reimbursement?

### Findings

1. Dr. Mairena is seeking reimbursement for a designated doctor examination performed on December 21, 2021. Per explanation of benefits dated April 5, 2022, Great Midwest Insurance Co. denied the bill stating that the time limit for filing had passed. The insurance carrier

indicated on this explanation of benefits that it received the bill on March 29, 2022.

According to 28 TAC §133.20 (b), a health care provider must submit a medical bill within 95 days from the date of service with few exceptions.

Per 28 TAC §102.4,

(h) Unless the great weight of evidence indicates otherwise, written communications will be deemed to have been sent on:

(1) the date received if sent by fax, personal delivery, or electronic transmission; or

(2) the date postmarked if sent by mail through United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent must be the next previous day that is not a Sunday or legal holiday...

No evidence of fax, personal deliver, electronic transmission, or postmark was provided. Therefore, DWC reviews the submission based on the later of the signature date on the bill or the date it was received minus five days. The signature date on the bill submitted as evidence was January 6, 2022. Because it is the later date, DWC concludes that Dr. Mairena submitted the bill for the examination in question to the insurance carrier on or about March 24, 2022, which is the noted received date minus five days. This date is less than 95 days from the date of service.

DWC finds that the insurance carrier's denial for this reason is not supported.

2. Because the insurance carrier failed to support its denial of payment, Dr. Mairena is entitled to reimbursement of the examination in question.

The submitted documentation supports that Dr. Mairena performed an evaluation of maximum medical improvement as ordered by DWC. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

Review of the submitted documentation finds that Dr. Mairena performed an impairment rating evaluation of the spine with range of motion testing. The rule at 28 TAC §134.250 (4)(C) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is \$300.00.

The submitted documentation indicates that Dr. Mairena was ordered to address maximum medical improvement, impairment rating, and extent of injury. The narrative report and enclosed forms support that these evaluations were performed, and two additional impairment ratings were provided. When multiple impairment ratings are required as a component of a designated doctor examination, 28 TAC §134.250(4)(B) states that the designated doctor shall be reimbursed \$50.00 for each additional impairment rating calculation. Therefore, the correct MAR for this service is \$100.00.

The submitted documentation indicates that Dr. Mairena performed an examination to determine the extent of the compensable. According to 28 TAC §134.235, the MAR for this examination is \$500.00.

The total allowable reimbursement is \$1,250.00. This amount is recommended.

### Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has established that additional reimbursement of \$1,250.00 is due.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Great Midwest Insurance Co. must remit to Noel Mairena, D.C. \$1,250.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### **Authorized Signature**

_____	_____	October 26, 2022
Signature	Medical Fee Dispute Resolution Officer	Date

### **Your Right to Appeal**

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at [www.tdi.texas.gov/forms/form20numeric.html](http://www.tdi.texas.gov/forms/form20numeric.html). DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a

1-800-252-7031, opción 3 o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).